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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/575,173	12/06/2006	Mark J. Nixon	06005/41124	6808		
45372	7590	01/12/2010	EXAMINER			
MARSHALL, GERSTEIN & BORUN LLP (FISHER) 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606				BARNES-BULLOCK, CRYSTAL JOY		
ART UNIT		PAPER NUMBER				
2121						
MAIL DATE		DELIVERY MODE				
01/12/2010		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,173	NIXON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Crystal J. Barnes-Bullock	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 April 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>10 Aug 09 &amp; 15 Feb 07</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. The following is an initial Office Action upon examination of the above-identified application on the merits. Claims 1-20 are pending in this application.

### *Priority*

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with the conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 365(c) and 119(e).

3. It is noted that this application appears to claim subject matter disclosed in prior Application No. PCT/US05/15393, filed 4 May 2005. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility

or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior

application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

***Information Disclosure Statement***

4. The examiner has considered the information disclosure statements (IDS) submitted on 10 August 2009 and 15 February 2007.

***Specification***

5. The disclosure is objected to because of the following informalities: related applications must be identified by application numbers or patent numbers if applicable. Attorney docket numbers should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 2, 4-7, 9, 10, 12 and 14-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

inventor(s), at the time the application was filed, had possession of the claimed invention. The specification briefly mentions the limitations in claims 2, 4-7, 9, 10, 12 and 14-20 but does not clearly define the limitations.

8. The phrases "translation of raw data" and "operational trends" in claim 2 are indefinite because the specification briefly mentions the limitations but does not clearly define the limitations.

9. The limitations in claim 4 are indefinite because the specification briefly mentions the limitations but does not clearly define the limitations.

10. The limitations in claim 5 are indefinite because the specification briefly mentions the limitations but does not clearly define the limitations.

11. The terms "dedicated" and "non-dedicated" in claims 6, 9 and 10 are not clearly defined.

12. The phrase "rich client" in claim 7 is indefinite because the specification does not clearly define the phrase.

13. The limitations in claim 13 are indefinite because the specification briefly mentions the limitations but does not clearly define the limitations.

14. The phrase "seamless graphical displays" in claims 14 and 19 is indefinite because the specification does not mention the phrase.

15. The phrase "tracking functions" in claims 14 and 19 is indefinite because the specification does not clearly define the phrase.
16. The phrase "outside sources" in claims 15 and 16 is indefinite because the specification does not mention the phrase.
17. The phrase "plant standards" in claim 17 is indefinite because the specification does not clearly define the phrase.
18. The phrase "scalable graphics" in claim 18 is indefinite because the specification does not clearly define the phrase.
19. The phrase "machine readable medium" in claim 19 is indefinite because the specification does not mention the phrase. The physical structure and material composition of the medium are not defined.
20. The term "transparent" in claim 20 is indefinite because the specification does not mention the term.
21. Claim 3 is rejected under the same rationale as claim 2 since it does not overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> paragraph.

*Claim Rejections - 35 USC § 112*

22. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

23. Claims 1, 14 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

24. The term "functions" is used four times in the limitations of claim 1. The examiner is unclear of the meaning of the term "functions" used several times. It is not obvious if each of them refers to the same or different meaning. As a result, the protection scope of claim 1 is unclear and thus is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

25. The phrase "more than one" in claims 1, 14 and 19 is unclear. Appropriate correction is required.

26. Claims 2 and 3 are rejected under the same rationale as claim 1 since they do not overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph.

*Claim Rejections - 35 USC § 102*

27. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

28. Claims 1, 4, 7, 8, 10, 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 7,165,226 B2 to Thurner et al.

As per claim 1, the Thurner et al. reference discloses an integrated graphical user interface for a process control environment, the interface comprising: interface graphics and separate functions (see column 2 lines 55-57, "different graphical views") for operations (see Abstract, "real-time monitoring and operations"), maintenance configuration (see column 2 lines 61-67, "maintenance"), simulation (see Abstract, "simulation") and management (see column 2 lines 61-67, "information management, recipe management") functions of a process plant (see column 2 lines 36-40, "manufacturing plant"), real-time interfacing functions ("real-

time monitoring and operations") for operations ("real-time monitoring and operations"), maintenance configuration ("maintenance"), and simulation functions ("simulation"), the interface providing real-time ("real-time monitoring") display (see column 2 lines 55-57, "several display areas") more than one of ("real-time monitoring and operations"), maintenance ("maintenance"), configuration (see Abstract, "configuration") and simulation functions ("simulation").

As per claim 4, the Thurner et al. reference discloses further comprising one or more of the following functions: panel motor start/stop buttons, status indications (see column 3 lines 38-42, "state machine view 28"), chart recorders, annunciator panels, subsystem interfaces and combinations thereof.

As per claim 7, the Thurner et al. reference discloses the interface (see column 2 lines 53-54, "Workbench 18") can run as a rich client or as part of a browser style interface (see column 3 lines 1-4, "universal browser") utilizing web services (see column 2 lines 59-61, "Web Based HMI GUI").

As per claim 8, the Thurner et al. reference discloses the interface (see column 2 lines 53-54, "Workbench 18") can run on one or more of a workstation (see column 3 lines 31-34, "Workbench"), a laptop, a PDA, and a smart phone.

As per claim 10, the Thurner et al. reference discloses the interface (see column 2 lines 53-54, "Workbench 18") supports a non-dedicated mode (see column 4 lines 21-22, "modes of operation") for use by configuration personnel.

As per claim 12, the Thurner et al. reference discloses the interface (see column 2 lines 53-54, "Workbench 18") supports one or more of: integrated voice and video; real-time data services (see column 5 lines 60-61, "real time"); external data services; XML files (see column 3 lines 45-47, "XML views"); access to other service interfaces; composite structure process graphics; class-based control hierarchies; integration of control, alarming, and abnormal situation management and prevention; integrated batch operator interfaces; integrated advanced control operator interfaces; route management; efficiency calculations; optimizations; mass and energy balances; integration of third party applications; multiple data collection systems (DCS) and combinations thereof.

As per claim 13, the Thurner et al. reference discloses the interface (see column 2 lines 53-54, "Workbench 18") receives displays (see column 2 lines 55-57, "several display areas") and other applications (see column 7 lines 58-59, "applications") to be loaded into a runtime workspace (see column 7 lines 60-61, "run-time environment").

*Conclusion*

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following reference is cited to further show the state of the art with respect to integrated graphical user interfaces (GUI)/ human machine interface (HMI) in plant/industrial environments:

US Pub. No. 2007/0282480 A1 to Pannese et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal J. Barnes-Bullock whose telephone number is 571.272.3679. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decay can be reached on 571.272.3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Crystal J. Barnes-Bullock/  
Primary Examiner, Art Unit 2121  
6 January 2010